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Washington, DC
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December 26, 1990

EPA Region 5 Records Ctr.



241364

VIA FEDERAL EXPRESS

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Re: NL Industries/Taracorp Superfund Site,
Granite City, Illinois

Gentlemen:

In accordance with Paragraph VIII 30 of the Administrative Order for Remedial Design and Remedial Action ("Order") issued in this matter, NL Industries hereby gives notice that it intends to comply with the Order by undertaking the following tasks specified in NL's August 10, 1990 good faith offer:

- a. Demographic study of the population of Granite City.
- b. Blood lead study of the population of Granite City.

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- c. Home inspections to identify possible sources of lead exposure.
- d. Investigation of the distribution of lead-bearing soils in Granite City.
- e. As an extension of tasks a-d above, development of a plan for a risk assessment for the site that is acceptable to U.S. EPA and implementation of the plan, if deemed appropriate by U.S. EPA.
- f. Development of a system for monitoring the ground water.
- g. Inspection of driveways and alleys in selected neighborhoods for battery casing materials.
- h. Recycling, if possible, of the drums from the Taracorp pile.
- i. A treatability study of the battery casing material.
- k. Design of a cap for the expanded Taracorp pile.
- l. Development of environmental contingency plans for actions to be taken in the event that future monitoring data indicate that air or ground water is found to be contaminated by releases from the site in the future.
- m. Development of a dust control plan for use during all remedial construction activities to mitigate the release of contaminated soils.

In addition, NL proposes to undertake a pilot study to determine the efficacy of deep tilling lead-bearing off-site soils to achieve a 500 ppm level as an alternative to excavation of such soils. The pilot study is discussed in more detail below.

NL has sufficient cause for declining to comply with the provisions of the order requiring excavation of off-site soils in nearby residential areas in accordance with sections 106(b)(1) and 107(c)(3) of CERCLA, 42 U.S.C. § 9606(b)(1) and § 9607(c)(3) for the following reasons.

1. The basis for the 500 ppm cleanup level has not been scientifically established in the administrative record.

NL has submitted several previous comments to this record which establish that EPA has no scientific basis for requiring soil excavation to a 500 ppm level. ¹ NL believes these comments demonstrate that it has sufficient cause for noncompliance with those provisions of the administrative order requiring excavation lead in soil to a 500 ppm level.

In addition, the phased action approach to determine lead clean-up levels recently recommended by the Society for Environmental Geochemistry and Health (SEGH) makes clear that additional information is required before a scientifically-defensible cleanup level for lead in soils can be determined. See SEGH "Lead in Soil" Task Force, Recommended Guidelines, (DRAFT) (attached). This approach requires a thorough investigations of the blood lead levels of the community that is judged to be at risk and the contributions to blood lead from soil and other sources prior to selection of a remedial action. On the basis of the results of these investigations, an appropriate soil clean-up level that is protective of public health is then scientifically determined. The Administrative Order does not specify that such investigations will be performed, nor does it allow for modification of the soil cleanup criteria in response to the results of such investigations. Instead, the order arbitrarily selected a 500 ppm clean-up level without adequate scientific support or analysis of site specific conditions. Clearly, NL has sufficient cause for noncompliance with the provision of the Order calling for implementation of this clean-up level.

¹ These comments include a 12/16/86 letter to Brad Bradley from Bonni Kaufman; the 3/12/90 Public Comments of NL Industries on the Proposed Plan for the Taracorp Superfund Site, Granite City, Illinois; and the 8/30/90 NL Industries Good Faith Offer.

2. A pilot study to determine the effectiveness and efficacy of deep tilling as a remedial technology for this site should be performed before the selection of a remedial alternative is finalized.

The recent SEGH report suggests that deep tilling can be used to mix the contaminated surface soils with clean sub-soil, thereby reducing the lead levels in the soils to which the community is exposed. The SEGH report notes that use of deep tilling as a remedial technology can eliminate the need for excavation and disposal of contaminated soils. A preliminary investigation of the suitability of tilling as a remedial technology for the Taracorp site indicates that there are a number of reasons why deep tilling may be a better method of remediating the residential-area soils at the Taracorp site than the excavation method specified in the Administrative Order. This investigation suggests that:

- a. A remedial action based on deep tilling can be developed that is protective of human health and consistent with all of the ARARs for this site.
- b. Tilling can be used to attain safe soil lead levels in a much shorter time than will be needed for excavation, resulting in less disruption to the community. Because tilling can proceed more quickly than excavation, the period of high lead exposure resulting from implementation of the remedy will be shorter, resulting in lower exposures and health.
- c. Substitution of deep tilling for excavation will greatly reduce or eliminate the need for heavy truck traffic through the residential portions of the community. This will result in a lower risk of traffic fatalities and injuries, air pollution due to vehicle emissions and airborne lead exposure from transportation of lead-bearing soils through the community.
- d. Tilling can permanently reduce the concentration of lead in surface soils to safe levels in a considerable portion of the residential area to be remediated, at a significantly lower cost than will be incurred by excavating. Tilling to a depth of twelve inches is feasible and is expected to result in average lead concentrations in surface soils that are within a 500 ppm range.
- e. A pilot project to determine the efficacy of tilling for the Taracorp site could be performed

in a few months in parallel with the Remedial Design tasks. Performance of the pilot study would not delay the development of an appropriate remedial design. Moreover, if the pilot-project is conducted in areas where the community's children are most exposed (e.g., playgrounds), it would result in an immediate reduction in such exposure.

3. The basis for the 500 ppm level was not subject to dispute resolution or public review prior to issuance of the Record of Decision.

NL voluntarily entered into an Administrative Consent Order (Consent Order) for conduct of a remedial investigation feasibility study at this site with EPA and the Illinois Environmental Protection Agency in May, 1985. The Consent Order scope of work negotiated and agreed to by the parties required NL to undertake a site-specific risk assessment, incorporating previous sampling, blood tests and health studies undertaken at the site. During the next five years, NL fully complied with the terms of the Consent Order, conducting three separate site-specific risk assessments, supervised by U.S. EPA and subjected to peer review scrutiny. NL submitted the preliminary feasibility study report in August, 1989, concluding that a 1510 ppm soil lead level for residential areas was protective of public health and the environment and conservatively used a 1,00 ppm soil lead level to select residential neighborhoods targeted for remediation.

NL received comments from U.S. EPA and IEPA on October 4, 1989 arbitrarily rejecting the previously approved and legally required risk-based approach to remediation of the site. The agencies instead proposed a 500 ppm level for residential soils and a 1,000 ppm level for industrial areas based on their interpretation of U.S. EPA Interim Guidance on Establishing Soil Lead Clean-up Levels at Superfund Sites issued in September, 1989. NL responded to these comments in compliance with the Consent Order on November 10, 1989, but U.S. EPA, without explanation, refused to enter into dispute resolution to resolve the differences in the two approaches, in direct contravention of Paragraph 17 of the Consent Order.

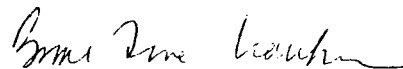
On January 10, 1990 U.S. EPA further breached the Consent Order by releasing NL's August, 1989 study, with an addendum prepared by EPA selecting Remedial Alternative H. U.S. EPA's selection of a remedial alternative prior to NL's receipt of comments required by Paragraph 17 of the Consent Order and the conclusion of dispute resolution procedures was clearly unlawful and constitutes sufficient cause for non-compliance with the unilateral order.

In addition, EPA has relied on the application of the Integrated Uptake/Biokinetic (IU/BK) Model as a basis for the 500 ppm lead-in-soil clean-up level in the Record of Decision. The IU/BK model was not used to support EPA's Proposed Plan for Remedial Alternatives at the site released for public comment on January 10, 1990 and was not listed as a reference therein. Therefore, there was no opportunity for public review of EPA's use and application of the model at the site, prior to issuance of the Record of Decision, in direct contravention of Agency policy.

Finally, NL would note that Paragraph XXVI of the Order for Remedial Design and Remedial Action requires an opportunity to confer on the implementation of this Order. At the conference scheduled for this purpose on December 21, 1990, the Agency's toxicologist for this site was not present. NL believes this lack of scientific expertise prevented a scientifically valid analysis of NL's comments and proposal by the Agency.

For these reasons, NL does not believe it is required under CERCLA to comply with the provisions of the Order requiring excavation of lead in soil to a 500 ppm level. NL, in cooperation with the other recipients of the Order, hereby offers to comply with all other requirements of the Order as specified in its good faith offer submitted on August 10, 1990 and in addition conduct the pilot study of deep tilling. Since EPA's acceptance of this proposal will impact and require modification of the provisions of the Order, NL reserves the right to comment on specific language in the Order should the Agency allow NL to proceed.

Sincerely,



Steven A. Tasher
Bonni Fine Kaufman
Counsel for NL Industries, Inc.